

Date of Decision: 5th July 1995

SPECIAL CIVIL APPLICATION NO. 11564 of 1994

FOR APPROVAL AND SIGNATURE

THE HONOURABLE MR. JUSTICE A.N. DIVECHA

1. Whether Reporters of Local Papers may be allowed to see the judgment? No
2. To be referred to the Reporter or not?
No
3. Whether their Lordships wish to see the fair copy of judgment? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

Shri Mukesh Patel, Advocate, for the Petitioners

Kum. H.M. Dave, Advocate, for Shri M.C. Bhatt, Advocate, for Respondent No.1

Rest served

CORAM: A.N. DIVECHA, J.
(5th July 1995)

ORAL JUDGMENT

In this petition under Art. 226 of the Constitution of India the petitioners have voiced two grievances. Their first grievance is that though Town Planning Scheme Vejalpur No.1 has been finalised, it is not implemented. Their second grievance is that they are not given water connection for their use within the municipal area of Respondent No.1

Municipality.

2. Respondent No.1 alone has appeared. A reply affidavit has been filed on its behalf. So far as non-implementation of the Town Planning Scheme in question is concerned, it is contended that it has to be implemented by the Ahmedabad Urban Development Authority. So far as the second grievance of the petitioners regarding non-supply of water connection in their houses is concerned, the say of respondent No.1 Municipality is to the effect that it faces acute shortage of funds and that it could not supply new water connections in view of pendency of one legal proceeding instituted by some people obtaining interim injunction against supply of water connections to certain residents including the present petitioners by respondent No.1 Municipality.

3. It is now an admitted position that the interim injunction against supply of new water connections to certain residents within the municipal area of respondent No.1 Municipality including the petitioners has come to be vacated. It appears that the matter is not carried further

by the losing party. In that view of the matter, no impediment on that ground exists against supply of water connection to the petitioners in their houses.

4. The paucity of funds is no ground for non-supply of water connections. It is the say of respondent No.1 Municipality in its reply affidavit that a new water tank has to be constructed in order to provide supply of water to all residents within its limits. If that be so, construction of such water tank has to be undertaken as expeditiously as possible. Respondent No.1 Municipality should find out ways and means to augment its resources for performance of its primary functions and discharge of its basic duties. It cannot be gainsaid that supply of water to residents within its limit is its primary function and basic duty. No authority is needed in support of this proposition of law. If the one is needed, a reference deserves to be made to the ruling of this court in the case of National Consumer's Protection Samiti and Anr. v. State of Gujarat and Ors. reported in 1994(2) 35(2) G.L.R. 1043. Sitting as a single Judge, the aforesaid ruling of this court is binding to me. Even otherwise I am in respectful agreement therewith.

5. It may be noted that the Ahmedabad Urban Development Committee is impleaded as respondent No.3 through its Chairman in this proceeding. it is unfortunate that it has not chosen to appear through its representative or lawyer. As transpiring from the reply affidavit filed by and on behalf of respondent No.1, respondent No.3 will be in charge

of implementation of the town planning scheme in question. It cannot shirk from its responsibility in that regard. No town planning scheme is framed for nothing. The framing of a town planning scheme is not an empty or idle formality. It is framed for organized development of certain urban areas. Once the concerned town planning scheme is finalised, it becomes the duty of the concerned authority to take steps towards its implementation. If no steps in that direction are taken, the concerned authority would be guilty of dereliction in its duty. In that view of the matter, respondent No.3 deserves to be given direction to take steps for implementation of the town planning scheme in question. It may be mentioned at this stage that it is nobody's case that the concerned town planning scheme has not been finalised.

6. In view of my aforesaid discussion, I am of the opinion that respondent No.1 Municipality should be directed to take immediate steps for supply of water connection to the petitioners and to see to it that water connection is supplied to the petitioners latest by 31st August 1995 by suitably adjusting the timings of water supply in different areas from the existing capacity. It may also undertake construction of a new water tank for the purpose of increase in supply of water. Respondent No.3 deserves to be directed to take immediate steps for implementation of Town Planning Scheme Vejalpur No.1.

7. In the result, this petition is accepted. Respondents Nos. 1 and 3 are directed to act accordingly in the light of this judgment of mine. It would be open to the petitioners to produce a certified copy of this judgment before respondent No.1 as well as respondent No.3 for their respective immediate action in the matter. Rule is accordingly made absolute with no order as to costs.
